

SEC POLICY 4.7

RESPONSE TO AUDIT FINDINGS WITH REGARD TO THE CHILDREN'S SERVICES ACT

4.7.1 PURPOSE

To provide guidance to the Office of Children's Services (OCS) and improve transparency for localities when the OCS Executive Director is carrying out his or her duties under the State Executive Council for Children's Services (SEC) Policy 4.6 (Denial of Funds) in responding to OCS audit noncompliance findings by local Children's Services Act (CSA) programs.

4.7.2 AUTHORITY

Section 2.2-2648 of the *Code of Virginia* authorizes the SEC, paraphrased in relevant part, to do the following:

- (i) Establish interagency programmatic and fiscal policies which support the purposes of CSA (subdivision D (3));
- (ii) Provide for dispute resolution procedures for administrative actions that support the purposes of the CSA (subdivision D (4));
- (iii) Provide for the administration of necessary functions that support the work of the OCS (subdivision D (6));
- (iv) Establish and oversee the operation of an informal review and negotiation process with the OCS Executive Director and a formal dispute resolution procedure before the SEC, to include formal notice and an appeals process, should the Executive Director or SEC find, upon a formal written finding, that a community policy and management team (CPMT) failed to comply with any provision of CSA (subdivision D (19)); and
- (v) Deny state funding to a locality, in accordance with (iv) in this section, where the CPMT fails to provide services that comply with CSA and other applicable statutes or policies (subdivision D (20)).

4.7.3 DEFINITIONS

“*Audit*” means a review by OCS employees of a local CSA program's policies, procedures, and practices through interview, observation, and the review of documentation to determine compliance, in whole or in part, with the requirements of a state or federal statute, including the applicable Appropriations Act provisions, regulation, or policy, whether it is specific to the CSA or are those promulgated by the participating agencies, that governs the operations of local CSA programs.

“*Noncompliance Finding*” means the local CSA program has not met the requirements, in whole or in part, of a state or federal statute, including the applicable Appropriations Act provisions, regulation, or policy, whether it is specific to the CSA or are those promulgated by the participating agencies that governs the operations of local CSA programs. There are three levels of noncompliance findings outlined in this SEC policy.

4.7.4 NONCOMPLIANCE FINDING LEVELS

The subsection delineates three levels of noncompliance findings as defined above. The parameters and examples provided in each level are not exhaustive but shall guide OCS in determining into which level any noncompliance finding is categorized based on the noncompliance finding's similarity to the general parameters and specific examples provided below.

4.7.4.1 Noncompliance Level Three Finding

- A. *General Parameters:* Audit findings in this category are case specific and occur when CSA state pool funds have been reimbursed when the expenditure is not authorized by statute, regulation, or policy.
- B. *Examples of Specific Noncompliance Level Three Findings:*
1. The child and/or family are ineligible for CSA funding per §§ 2.2-5211 and 2.2-5212 of the *Code of Virginia* or documentation of eligibility (e.g., an Individualized Education Program [IEP] or a Child in Need of Services [CHINS] eligibility determination) was not available for review during the audit;
 2. The CSA funding was reimbursed for services required to be paid through an alternative funding source (e.g., failure to utilize Title IV-E or Medicaid funds in eligible cases);
 3. Medicaid funding was not sought and/or denial of Medicaid funding was not documented despite the service being reimbursable by Medicaid and the child is covered under Medicaid;
 4. Services were not recommended by a Family Assessment or Planning Team (FAPT) or Multidisciplinary Team (MDT) and/or an Individual and Family Service Plan (IFSP) was not developed, except where a local CPMT policy allows such expenditures to be exempt from FAPT or IFSP requirements (e.g., "maintenance only" foster care or IEP-mandated placements);
 5. The funding was not approved by the CPMT;
 6. Utilization of the state pool funds violated participating agency statutes, regulations, or policies, such as:
 - a. Payment for Enhanced Foster Care Maintenance when the Virginia Department of Social Services' (VDSS) Virginia Enhanced Maintenance Assessment Tool (VEMAT) policy was not followed;
 - b. Title IV-E funding was denied due to error; or
 - c. The local DSS used an unapproved/unlicensed foster home placement.
 7. Services were within the scope of responsibility of another agency (e.g., services to students with disabilities provided in the public school setting; administrative costs of a local DSS such as paternity testing, drug screening, or legal services

- related to prosecuting child abuse and neglect; case management by a local DSS for youth committed to the Department of Juvenile Justice (DJJ));
8. The service provider did not meet licensing requirements for the specific service (e.g., behavioral health providers or providers [LCPA, day care] requiring licensure by VDSS);
 9. The use of a non-Medicaid provider, when the child and/or family were Medicaid eligible, and there is no substantiation that a Medicaid provider was unavailable or inappropriate;
 10. Failure to refund to CSA recoveries made against previously claimed costs (e.g., child support collections, Title IV-E recoveries, or retroactive Medicaid payments for services);
 11. Failure to correct erroneous expenditure reports that require adjustments to CSA match rate categories; and
 12. Expenditures claimed after September 30 which were incurred in the previous fiscal year.

4.7.4.2 Noncompliance Level Two Finding

A. *General Parameters:* Findings in this category are case specific and involve a violation of an applicable statute, regulation, or policy but, had the requirements been followed, would have been eligible for reimbursement through state pool funds. Findings may be mitigated by corrective action already implemented on a case-specific basis (e.g., FAPT or CPMT action was not timely made but was taken in a reasonable time thereafter).

B. *Examples of Specific Noncompliance Level Two Findings:*

1. Assessments with the mandatory uniform assessment instrument (i.e., CANS) are not completed in accordance with established requirements (e.g., initial, annual, or discharge assessments);
2. FAPT did not adopt recommendations and/or an IFSP was not developed in a timely manner (e.g., an LDSS emergency placement was not heard by FAPT within 14 days of placement, but the requirements were completed within a reasonable [e.g., 30 day] time period), except where CPMT policy allows an exemption to the requirement;
3. CPMT did not approve services and expenditures in a timely manner but did so within a reasonable (e.g., 30 day) time period;
4. There was missing or inadequate documentation (e.g., utilization review, missing elements of an IFSP, parental contribution assessments, provider progress notes, CHINS eligibility determinations, parental participation in service planning, VEMAT documentation, or parental agreements) during the audit but enough

information was available to determine the service was eligible for state pool fund reimbursement; and

5. There was missing, incomplete, or inaccurate financial documentation (e.g., purchase orders, invoices, or vendor contracts) but enough documentation to determine that the service was eligible for state pool fund reimbursement.

4.7.4.3 Noncompliance Level One Finding

A. *General Parameters:* Audit findings in this category are **not** child specific but represent failure to meet statutory, regulatory, or policy requirements.

B. *Examples of Specific Noncompliance Level One Findings:*

1. CPMT policies are incomplete, obsolete, or do not align with applicable statutes, regulations, or policies;
2. Lack of evidence of long-range community planning and utilization management activities;
3. FAPT and CPMT membership does not meet statutory requirements, and meaningful efforts to correct this noncompliance are not provided;
4. Required Statement of Economic Interest submissions of designated FAPT and CPMT members are not completed in compliance with statutory requirements;
5. There are inadequate fiscal controls (e.g., separation of purchasing and payment authority);
6. There are inadequate CSA-related information technology security controls (e.g., users sharing accounts or passwords); and
7. The locality failed to properly reconcile CSA reimbursement requests with other fiscal systems.

4.7.5 REVIEW OF FINDINGS BY OCS

The OCS Executive Director shall review (i) the audit report; (ii) any response, including corrective actions and quality improvement plans from the locality, (iii) the recommendation of the auditor(s); and (iv) any OCS internal staff review prior to responding to the noncompliance finding.

4.7.6 RESPONSES TO NONCOMPLIANCE FINDINGS

4.7.6.1 Response to Level Three Findings

The OCS Executive Director shall (i) require a corrective action plan and (ii) recover the noncompliant state pool fund reimbursements upon the first and any second or subsequent Noncompliance Level Three Finding.

4.7.6.2 Response to Level Two Findings

- A. *First Level Two Noncompliance Finding:* The OCS Executive Director shall require the locality to submit a corrective action plan on the first instance of Noncompliance Level Two Finding.
- B. *Second or Subsequent Level Two Finding:* The OCS Executive Director shall (i) require a corrective action plan and (ii) recover the state pool funds on any second or subsequent Level Two Noncompliance Finding. Subsequent findings may occur on the next regularly scheduled audit or on any occasion on which follow-up monitoring of previously agreed upon corrective action occurs.

4.7.6.3 Response to Level One Findings

- A. *First Noncompliance Level One Finding:* The OCS Executive Director shall require the locality to submit a corrective action plan on the first instance of Noncompliance Level One Finding.
- B. *Repeat Noncompliance Level One Finding:* The OCS Executive Director shall suspend state pool fund reimbursements on any second or subsequent instance of a Noncompliance Level One Finding until the corrective action plan is implemented. Subsequent findings may occur on the next regularly scheduled audit or on any occasion on which follow-up monitoring of previously agreed upon corrective action occurs.
- C. *Corrective Action Plan Compliance:* Once a local CSA program is in compliance with all applicable requirements of a Noncompliance Level One Finding resulting in suspension of state pool fund reimbursements, all funds will be retroactively released and new requests for reimbursement will be approved.

4.7.6 APPEAL OF OCS RESPONSE

An appeal of the action taken by the Executive Director of OCS shall be pursued by the CPMT in accordance with SEC Policy 3.4 (Dispute Resolution Process).

4.7.7 POLICY REVIEW

This policy will be subject to annual review by the SEC Finance and Audit Committee to determine whether there are necessary modifications that should be recommended to the findings in each Noncompliance Finding Level.